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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Michael A. Evans

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EXAMINER

HOEL, MATTHEW D

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

11/20/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

intear@bakerd.com  
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<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/823,829</p>	<p><b>Applicant(s)</b> EVANS ET AL.</p>	
	<p><b>Examiner</b> Matthew D. Hoel</p>	<p><b>Art Unit</b> 3714</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1-28.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714

/M. D. H./  
Examiner, Art Unit 3714

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding the applicants' remarks on Page 10 and point 4 of page 1 of the affidavit, the examiner believes that Wood anticipates the presently claimed cross-referencing for the following reasons. Wood cross-references the responses relating to one of the personality attributes. This rating of a plurality of competencies, pertaining to point 6 on page 2 of the affidavit, is done by the Keirsey Temperament Sorter in Paras. 195 to 233. Extroversion (E), Introversion (I), Sensation (S), Intuition (N), Thinking (T), Feeling (F), Judging (J), and Perceiving (P) are measured (Paras. 228 to 231). These attributes are cross-referenced to personality types Individualistic (ENFP), Enthusiastic (ENFJ), Ardent (INFP), Poetical (INFJ), Curious (ENTP), Born Leader (ENTJ), Intelligence (INTP), Behind-the-scenes Leader (INTJ), Bold (ESTP), Life of the Party or Impulsive (ESFP), Adventurous (ISTP), Kind (ISFP), Pillar of the Community or Responsible (ESTJ), Team Player (ESFJ), Dependable (ISTJ), and Sincere (ISFJ) (Paras. 211 to 226, respectively), so these four attributes are cross-references to 16 personality types or competencies. Wood in Para. 380 describes cross-referencing and matching similar answer patterns and behaviors stored in databases 2600 and in Para. 381 gives an example of cross-referencing or correlating stock trading history and click histories indicating that the user is only interested in certain industries. Based on the correlation in Para. 381 recommendations are made to improve the user's trading and the system notes which articles the viewer saw to that others like him can see the same reports and articles. The cross-referencing of trading history and click history is an example of correlating attributes from a plurality of individual capability assessments. The examiner notes that Wood would thus cross-reference the responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests (Para. 223 describing the Keirsey Temperament Sorter, ESTJ, pillar of the community, industrious, conscientious, responsible; Para. 243 describing the Keirsey Character Sorter, Supervisor or ESTJ, pillar of the community, industrious, conscientious, responsible), so Wood in '154 anticipates this newly claimed limitation. The applicants have not cited, in the claim language, how their competencies or cross-referencing get around the reference. The examiner believes he has made every effort to interpret the claim language as broadly as reasonable in light of the specification without reading the limitations of the specification into the claims. The applicants have not cited in the claim language how their competencies and cross-referencing thereof distinguish over the references in a non-obvious manner.

Regarding the applicants' comments on Page 11 and point 5 on page 2 of the affidavit, Para. 260 of Wood states that where a user would like to know his or her financial personality the use of the Keirsey Temperament Sorter together with other personality models and that when plural models are combined that a new categorization scale is created, so Wood does correspond responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests.

Regarding the applicants' remarks on Pages 11 and 12 and point 7 of page 2 of the affidavit, Wood creates a comprehensive individual capability evaluation reports that rates the plurality of competencies, the report being at least partially based upon the cross-referring of the responses (Keirsey Character Sorter and Keirsey Temperament Sorter cross-referenced as outlined above), and provides the comprehensive individual capability evaluation to the individual (employment matching report based on selection of traits, skills, and competencies to a potential employer, Para. 337; or career action plan to tell employee how to get along with boss, Paras. 337 to 309). Wood does measure competencies (competencies measured, Para. 109; competency-based personality data used, Paras. 109 & 117; job listing of competencies for ideal candidate, Para. 177; match based on competencies, Para. 337, see also 347 & 350). Regarding the applicants' remarks on Page 12, the examiner believes this employment matching based on the suitability of employment traits or competencies is the claimed hallmark analysis. "Hallmark analysis" is not further described in the claims beyond what is cited in Claim 2; the examiner believes the analysis of Wood is the analysis pertaining to the specific qualities of the individual as claimed. This is what the examiner believes is a comprehensive report based on the plurality of competencies, as the overall qualities of the applicant are used for the employment matching purposes. The examiner incorporates the remarks of the last office action by reference as these points have already been addressed.

The affidavit is made under 37 CFR 1.132 after-final. The applicants have not stated why the affidavit could not have been presented earlier, as the examiner believes these issues were adequately addressed in the last action. The affidavit is thus not entered per 37 CFR 1.116(e) and MPEP 714.12 and 716.01.